

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

RUSSELL PFEFFER, DAVID DESSNER,  
ADAM SHERMAN, FRANK CRONIN,  
ROGER ROJAS, JASON AUERBACH,  
GRACE BOZICK, MUHAMED VRLAKU  
and ALL OTHERS SIMILARLY SITUATED,

Civ No. 3:23-cv-813

Plaintiffs,

v.

BANK OF AMERICA CORPORATION and  
BANK OF AMERICA N.A.,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS' REQUEST FOR MODIFICATION OF  
COURT-APPROVED NOTICE**

Plaintiffs by and through their undersigned counsel hereby submit this Response to Defendants Bank of America Corporation and Bank of America N.A.'s ("Bank of America") Request for Modification of Court-Approved Notice (Doc. 53) ("Defendants' Request").

Defendants initially accused Plaintiffs of submitting Paragraph 5 of the proposed Notice in error. Plaintiffs referred Defendants to both parties' proposed Notices, none of which contained the language in Paragraph 5 disclosing to members of the collective that Named Plaintiffs and their counsel will control the litigation, and pointed out to Defendants that the Court had modified

Paragraph 5 itself. Defendants' Request does not offer an explanation or any basis for concluding that the Court's modification was in error.

Plaintiffs do not consent to Defendants' proposed amendment striking the language in Paragraph 5, which is consistent with the FLSA and standard in FLSA notices (*e.g. Danford v. Lowe's Home Centers, LLC, et. al.*, 5:19-CV-00041-KDB-DCK, 2019 WL 4874823 (W.D.N.C. October 2, 2019)). Plaintiffs' primary concern, however, is that there be no delay in the current schedule. In the unlikely event that Defendants are correct that the Court included the language in Paragraph 5 in error, Plaintiffs do not oppose modification provided the current schedule is unaffected.

Respectfully submitted,

Dated: August 5, 2024

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